

C. Dennis Loomis, Bar No. 82359  
 BAKER & HOSTETLER LLP  
 11601 Wilshire Boulevard, Suite 1400  
 Los Angeles, California 90025-7120  
 Telephone: (310) 820-8800  
 Facsimile: (310) 820-8859  
 Email: cdloomis@bakerlaw.com

Margaret A. Abernathy, Bar No. 300273  
 BAKER & HOSTETLER LLP  
 1050 Connecticut Avenue, N.W., Suite 1100  
 Washington, DC 20036  
 Telephone: (202) 861-1500  
 Facsimile: (202) 861-1783  
 Email: maabernathy@bakerlaw.com

Attorneys for Plaintiff  
 GLOBEFILL INCORPORATED, a Canadian  
 corporation

**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA  
 SOUTHERN DIVISION**

GLOBEFILL INCORPORATED, a  
 Canadian corporation,

Plaintiff,

v.

COASTAL COCKTAILS, INC., a  
 California corporation, doing business as  
 MODERN GOURMET FOODS, and  
 MARK GREENHALL, an individual,

Defendants.

COASTAL COCKTAILS, INC., a  
 California corporation, doing business as  
 MODERN GOURMET FOODS, and  
 MARK GREENHALL, an individual,

Counterclaimants,

v.

GLOBEFILL INCORPORATED, a  
 Canadian corporation,

Counterdefendant.

Case No. 8:17-cv-438 AG (JCGx)

[Honorable Andrew J. Guilford]

**PLAINTIFF/  
 COUNTERDEFENDANT  
 GLOBEFILL  
 INCORPORATED'S ANSWER  
 TO DECLARATORY  
 JUDGMENT COUNTERCLAIMS**

Complaint filed: March 13, 2017  
 Counterclaim filed: May 15, 2017

1 Plaintiff/Counterdefendant Globefill Incorporated (“Globefill” or  
2 “Counterdefendant”), by and through its attorneys, hereby answers the  
3 Counterclaims of Defendants/Counterclaimants Coastal Cocktails, Inc., doing  
4 business as Modern Gourmet Foods, and Mr. Mark Greenhall (collectively  
5 “Defendants” or “Counterclaimants”), as follows.

6 1. Globefill admits the allegations of Counterclaim paragraph 71, except  
7 to the extent that said allegation is made in reference to allegations in Globefill’s  
8 original Complaint which have been superseded by Globefill’s First Amended  
9 Complaint (the “Amended Complaint”), which adds a claim for relief for violation  
10 of registered trade dress under Section 32(1) of the Lanham Act.

11 2. Globefill admits the allegations of Counterclaim paragraph 72.

12 3. Globefill admits the allegations of Counterclaim paragraph 73.

13 4. Globefill admits the allegations of Counterclaim paragraph 74.

14 5. Globefill admits the allegations of Counterclaim paragraph 75, except  
15 to the extent that the Amended Complaint also arises under Section 32(1) of the  
16 Lanham Act, 15 U.S.C. § 1114(1).

17 6. Globefill admits the allegations of Counterclaim paragraph 76.

18 7. Globefill admits the allegations of Counterclaim paragraph 77, except  
19 to the extent that the Amended Complaint also arises under Section 32(1) of the  
20 Lanham Act, 15 U.S.C. § 1114(1).

21 8. Answering Counterclaim paragraph 78. Globefill admits that it is the  
22 owner of the rights in the Alleged Trade Dress that have been asserted in its  
23 Amended Complaint. Except as so expressly admitted, Globefill denies the  
24 allegations of paragraph 78.

25 9. Answering Counterclaim paragraph 79, Globefill admits that it is the  
26 owner of United States Trademark Registration No. 4,043,730. Except as so  
27 expressly admitted, Globefill denies the allegations of paragraph 79.  
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10. Answering Counterclaim paragraph 80, Globefill admits that it is the owner of United States Trademark Registration No. 4,043,730. Except as so expressly admitted, Globefill denies the allegations of paragraph 80.

11. Globefill denies the allegations of Counterclaim paragraph 81.

12. Globefill denies the allegations of Counterclaim paragraph 82.

13. Globefill admits the allegations of Counterclaim paragraph 83.

14. Answering Counterclaim paragraph 84, Globefill admits Copyright Registration No. VA 1-766-939 claims rights and authorship of the sculpture/3-D artwork of the skull-shaped bottle of Exhibit A. Except as so expressly admitted, Globefill denies the allegations of paragraph 84.

15. Answering Counterclaim paragraph 85, Globefill admits the '360 Patent claims "the ornamental design for a bottle, as shown and described." Except as so expressly admitted, Globefill denies the allegations of paragraph 85.

16. Answering Counterclaim paragraph 86, Globefill realleges and incorporates here by this reference the admissions, denials and allegations set forth in paragraphs 1 through 15 hereinabove.

17. Globefill admits the allegations of Counterclaim paragraph 87.

18. Answering Counterclaim paragraph 88, Globefill denies that Defendants are entitled to a declaration that they have not engaged in, and are not engaging in, unfair competition, false designation of origin in the nature of trade dress infringement and other alleged unlawful activity.

19. Answering Counterclaim paragraph 89, Globefill realleges and incorporates here by this reference the admissions, denials and allegations set forth in paragraphs 1 through 18 hereinabove.

20. Globefill admits the allegations of Counterclaim paragraph 90.

21. Answering Counterclaim paragraph 91, Globefill denies that Defendants are entitled to a declaration that they do not infringe and are not infringing United States Copyright Registration No. VA 1-766-939.

22. Answering Counterclaim paragraph 92, Globefill realleges and incorporates here by this reference the admissions, denials and allegations set forth in paragraphs 1 through 21 hereinabove.

23. Globefill admits the allegations of Counterclaim paragraph 93.

24. Answering Counterclaim paragraph 94, Globefill denies that Defendants are entitled to a declaration that they do not infringe and are not infringing the '360 Patent.

25. Answering Counterclaim paragraph 95, Globefill realleges and incorporates here by this reference the admissions, denials and allegations set forth in paragraphs 1 through 24 hereinabove.

26. Answering Counterclaim paragraph 97, Globefill denies that Defendants are entitled to a declaration that the Alleged Trade Dress is invalid and unenforceable.

27. Answering Counterclaim paragraph 98, Globefill realleges and incorporates here by this reference the admissions, denials and allegations set forth in paragraphs 1 through 26 hereinabove.

28. Globefill admits the allegations of Counterclaim paragraph 99.

29. Answering Counterclaim paragraph 100, Globefill denies that Defendants are entitled to a declaration that the United States Copyright Registration No. VA 1-766-939 is invalid and unenforceable.

30. Answering Counterclaim paragraph 101, Globefill realleges and incorporates here by this reference the admissions, denials and allegations set forth in paragraphs 1 through 29 hereinabove.

31. Globefill admits the allegations of Counterclaim paragraph 102.

32. Answering Counterclaim paragraph 103, Globefill denies that Defendants are entitled to a declaration that the '360 Patent is invalid and unenforceable.

1           33. Answering Counterclaim paragraph 104, Globefill realleges and  
2 incorporates here by this reference the admissions, denials and allegations set forth  
3 in paragraphs 1 through 32 hereinabove.

4           34. Globefill admits the allegations of Counterclaim paragraph 105.

5           35. Answering Counterclaim paragraph 106, Globefill denies that  
6 Defendants are entitled to a declaration that the Defendants or either of them have  
7 not breached the Settlement Agreement.

8           WHEREFORE, Globefill prays that Counterclaimants take nothing by their  
9 Counterclaim and that the same be dismissed with prejudice.

10 Dated: May 26, 2017

11 BAKER & HOSTETLER LLP  
12 C. Dennis Loomis  
13 Margaret A. Abernathy

14 /s/ C. Dennis Loomis  
15 C. Dennis Loomis

16 *Attorneys for Plaintiff*  
17 GLOBEFILL INCORPORATED  
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